

Message Text

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ACTION EB-08

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FOR EB/OA PASS CAB

EO 11652: N/A
TAGS: EAIR, SZ
SUBJ: CIVAIR: RENEWAL OF MEMORANDUM OF UNDERSTANDING ON CHARTERS

REF: A) 76 STATE 312865; B) BERN 02; C) BERN 211 (NOTAL)

1. EMBOFF AND JOSEPH CHESN (CAB) MADE COURTESY
CALL MARCH 15 ON SWISS FEDERAL AIR OFFICE DIRECTOR
GULDIMANN BEFORE DISCUSSING WITH CHARLES STURZENEGGER,
AIR TRANSPORT SECTION, TECHNICAL ASPECTS OF POSSIBLE
SWISS ACCEPTANCE OF US ORIGIN ABC FLIGHTS UNDER
RENEWED MEMORANDUM OF UNDERSTANDING.

2. CHESN TOLD GULDIMANN THAT HE HAD JUST COME
FROM LONDON WHERE AD REFERENDUM CHARTER UNDER-
STANDING HAD BEEN REACHED BUT HE WOULD NOT BE
DISCUSSING ITS PARTICULARS, BECAUSE ROGERS HAD
INDICATED HE WOULD INFORM ECAC STATES OF
CONTENT ONLY AFTER USDEL HAD COMPLETED
INITIAL AD REFERENDUM PROCESS IN WASHINGTON. HOWEVER,
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DURING MEETING WITH STURZENEGGER CABLE
ARRIVED FROM UK ADDRESSED TO ALL ECAC
DIRECTORS GENERAL WHICH INFORMED THEM OF NATURE
OF AD REFERENDUM UNDERSTANDING, INCLUDING
ACCURATE DESCRIPTION OF MINIMUM DURATION
COMPROMISE.

3. DISCUSSION WITH STURZENEGGER DWELT ON SWISS ACCEPTANCE OF US ABC'S, PREFERABLY UNDER MOU RENEWED UNTIL MARCH 31, 1978. RE PARAS 2A AND 2B REFEELS A AND B, STURZENEGGER CONFIRMED THAT SWISS AUTHORITIES WILL ACCEPT 45-DAY PRELISTING ASPECT OF US RULES WHETHER INDIVIDUAL FLIGHTS OR SERIES OR FLIGHTS ARE INVOLVED. SWISS ARE NOW AUTHORIZING 45-DAY ABC'S ORIGINATING IN SWITZERLAND AND WOULD WANT TO AMEND ANNEX TO MOU TO REFLECT THIS. THEY WILL ALSO ACCEPT US MINIMUM DURATION AND ALL SUBSTITUTION PROVISIONS (BOTH TEN PERCENT GENERAL PUBLIC AND TEN PERCENT STANDBY LIST) WHERE FLIGHTS ARE NOT RPT NOT IN SERIES, IE, "MORE THAN THREE FLIGHTS BETWEEN SAME PAIR OF POINTS WITHIN ANY 90-DAY PERIOD BY SAME CARRIER FOR ONE OR MORE CHARTERERS".

4. RE SUBSTITUTION FROM GENERAL PUBLIC FOR ABC CHARTERS IN SERIES (PARA 2D REFEELS A AND B), IT WAS MUTUALLY UNDERSTOOD THAT SECOND SENTENCE OF FOOTNOTE ONE OF MOU, PERMISSIVE BUT NOT COMPULSORY PROVISION FOR LIMITATION ON SUBSTITUTION, COULD APPLY WITHOUT AMENDMENT IF BOTH GOVTS WERE TO AGREE. HOWEVER, SWISS PUBLIC POSITION WOULD HAVE TO BE THAT NO GENERAL PUBLIC SUBSTITUTION IS ALLOWED, AND SWISS AIR OFFICE WOULD SO INFORM ALL LIMITED OFFICIAL USE

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CARRIERS. STURZENEGGER MADE NO COMMENT ON HOW CAREFULLY THIS WOULD BE ENFORCED.

5. RE MINIMUM ABC DURATION, CHESN SUGGESTED THAT ONE WEEK ABC'S PRESENTED ONLY ONE DAY DEPARTURE, IN OPERATING PRACTICE, FROM LONG-ACCEPTED TEN DAY TGC'S, AND THAT SUCH TRIPS WERE LIKELY TO BE MINIMAL IN NUMBER. STURZENEGGER SAID THAT GULDIMANN AND AIR OFFICE LEGAL COUNSEL DEEMED -4 DAY MINIMUM DURATION ESSENTIAL BECAUSE WITH FIXED PRICE AND ONLY 45 DAY PRELISTING ABC'S ARE SUFFICIENTLY LIBERALIZED. STURZENEGGER ALSO REFUTED CONCEPT THAT ANY CARRIER IS LIKELY TO HAVE MINIMAL ONE WEEK ABC PROGRAMS. SWISS RECENTLY DISAPPROVED SERIES OF 83 COMBINED ABC/ITC/OTC FLIGHTS PROPOSED FOR NEW YORK/GENEVA BY OVERSEAS NATIONAL AND NATIONWIDE LEISURE CORP, SAME CARRIER AND ORGANIZER WHOSE UNEXPECTED SHORT

DURATION ABC'S HAD WEAKENED USDEL ARGUMENT
IN LONDON. STURZENEGGER SAID CARRIERS'S
REP HAD CONFIRMED THIS WAS PROGRAM
WEST GERMANY REFUSED, AND THAT EACH 250-PASSENGER
FLIGHT WOULD HAVE AT LEAST ONE GROUP OF 7-
NIGHT (9 DAYS DURATION) ABC PASSENGERS.

6. RE CONSULTATION (PARA C, REFTELS A AND B),
IT APPEARED THAT SITUATION WHICH WOULD EVOKE
SUCH SOLUTION ALREADY EXISTED. STURZENEGGER
DISCOUNTED POSSIBILITY OF AD REFERENDUM SOLUTION
AS WITH UK, IF US WERE TO OFFER IT, OR SWISS
ACCEPTANCE OF 9-DAY MINIMUM DURATION (DOVERING
ALL US FLIGHTS) BECAUSE OF SWISS LEGAL POSITION
AS MENTIONED PARA 5 ABOVE. HE SUGGESTED THAT
GULDIMANN MIGHT AGREE TO SWISS RESERVATION
BEING PHRASED AS QTE ... OR MINIMUM DURATION OF
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ABC PASSENGERS ON SERIES OF FLIGHTS... UNQTE,
AND INSERTED IN SECOND SENTENCE OF FOOTNOTE 1
OF MOUT TO MAKE VAGUE RESERVATION
OF RECEIVING COUNTRY'S QTE RIGHT TO IMPOSE
CONDITIONS CONSISTENT WITH COMPULSORY PROVISIONS
OF THEIR NATIONAL LAW UNQTE. STURZENEGGER ALSO
SPOKE OF POSSIBLE WAIVERS, BUT FOR ABOUT 10
FLIGHTS, NOT 80 OR 90 AS RECENTLY REQUESTED.
HE STRESSED THA ALL ECAC COUNTRIES ARE NOW
UNDER SELF-IMPOSED PERESSURE TO INCRREASE AND
SHARPEN THEIR ENFORCEMENT.

7. STURZENEGGER SAID MOU RENEWAL WOULD NOT BE
POSSIBLE UNTIL AFTER ECAC DIRECTORS GENERAL
CONSIDERED THE US-UK AH REFERENDUM UNDERSTANDING
IN LATE MARCH. HE ADDED THAT SOME ECAC MEMBERS
MIGHT CAUSE DIFFICULTY BECAUSE UK HAD LED
EFFORT TO KEEP ECAC FROM COMPROMISE ON ABC DURATION
PROPOSED TO AGREE TO SIGNIFICANT COMPROMISES.
STURZENEGGER SAID THAT SWISS WOULD LIKE
TO HAVE AN MOUT BECAUSE IT OFFERS STABILITY.
HE BELIEVED GULDIMANN MIGHT BE MORE AMENABLE
TO COMPROMISE IF US INITIATED PROPOSAL TO RENEW.
CHESEN SAID HE THOUGHT US WOULD ALSO LIKE MOU
FOR SAME REASON BUT COULD LIVE WITHOUT ONE IF
NECESSARY. CHESEN SAID US INITIATIVE MIGHT BE
DIFFICULT WITHOUT ADVANCE INDICATION OF NATURE
OF REPLY. STURZENEGGER PROMISED TO TAKE SOME
FURTHER SOUNDINGS. BOTH SAID THEY WOULD
DISCUSS ABOVE POINTS WITH THEIR SUPERIORS.

8. COMMENT: AS IN OCT 1975 CONSULTATIONS,
AND REFLECTED IN MOU, SWISS ARE CAREFUL TO
AVOID VIOLATING SWISS NATIONAL LAW. SWISS
ARE ALSO CONCERNED THATY THEY NOT BE FIRST TO
BREAK ECAC'S DETERMINED STAND AGAINST ONE-
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WEEK ABC AND GENERAL PUBLIC SUBSTITUION.
SWISS ESPECIALLY WISH TO AVOID ADVERSE REACTION
FROM NEIGHBORING WEST GERMANY, FRANCE, AND
ITALY. ANTICIPATED
LARGE VOLUME OF SUCH FLIGHTS, CREATED BY SEVERAL
CARRIERS CONCENTRATING ON ONE SAFEHAVE, COULD
ALSO FRUSTRATE ANY MUTUALLY ACCEPTABLE SOLUTION.
MOST PRACTICAL SOLUTION APPEARS TO BE MODERATE
VOLUME ONE-WEEK ABC'S FOR 1977 SPREAD OVER
SEVERAL MARKETS WITH RECEIVING GOVTS HAVING
BEEN PERSUADED TO ACCEPT THEM BY ARGUMENTS
MADE IN US-UK NEGOTIATIONS.
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